

[REDACTED]

Dear Sir or Madam:

We have considered your application for recognition of exemption from Federal income tax under section 501(c)(3) of the Internal Revenue Code.

The information available indicates that you were incorporated in [REDACTED] on [REDACTED], for the purpose of promoting and giving dance scholarships for Lea County, New Mexico residents who show promise in the area of fine arts.

You restated your Articles of Incorporation [REDACTED], for exclusively charitable, religious, educational and scientific purposes, including, for such purposes the making of distributions to organizations that qualify as exempt organizations under section 501(c)(3) of the Internal Revenue Code.

Your original board of directors was made up of [REDACTED] and [REDACTED]. The board now consists of [REDACTED], and [REDACTED]. [REDACTED] and [REDACTED] are related by blood. [REDACTED] and [REDACTED] are shareholders in the law firm of [REDACTED].

[REDACTED] is a sole proprietorship owned by [REDACTED].

You have awarded [REDACTED] scholarships. All of these scholarships were awarded to individuals who at that time were students of [REDACTED].

You submitted a copy of a newspaper advertisement which states "[REDACTED] owner [REDACTED] will hold its first scholarship auditions on Sunday at the [REDACTED]. It further states that auditions are open to dancers from [REDACTED] County who currently study dance in ballet or jazz."

Code	Initiator	Reviewer	Reviewer	Reviewer	Reviewer	Reviewer	Reviewer
Surname		[REDACTED]					
Date		4-11-91					

[REDACTED]
You submitted [REDACTED] audition forms. All of the audition forms state that the individuals are currently attending classes in [REDACTED] County and are students at [REDACTED].

[REDACTED] percent of the scholarships were used for dance at [REDACTED].

Section 501(c)(3) of the Code provides exemption for:

"Corporations...organized and operated exclusively for religious, charitable,...or educational purposes,...no part of the net earnings of which inures to the benefit of any private shareholder or individual..."

Section 1.501(c)(3)-1 of the regulations provides, in part, as follows:

"(a)(1) In order to be exempt as an organization described in section 501(c)(3), an organization must be both organized and operated exclusively for one or more of the purposes specified in such section. If an organization fails to meet either the organizational test or the operational test, it is not exempt."

"(d)(1)(ii) An organization is not organized or operated exclusively for one or more of the purposes specified in subdivision (i) of this subparagraph unless it serves a public rather than a private interest. Thus, to meet the requirement of this subdivision, it is necessary for an organization to establish that it is not organized or operated for the benefit of private interests such as designated individuals, the creator or his family, shareholders of the organization, or persons controlled, directly or indirectly, by such private interests."

Revenue Ruling 69-175, 1969-2C.B. 149, states that a non-profit organization formed by parents of pupils attending a private, that provides school bus transportation for its members' children serves a private rather than a public interest and does not qualify for exemption under section 501(c)(3).

Revenue Ruling 76-206, 1976-2C.B. 154, states that a non-profit organization formed to generate community interest in the retention of classical music programs by a local for-profit radio station by seeking program sponsors, encouraging continuation of contracts by existing sponsors, soliciting subscriptions to the station's program guide, and distributing materials promoting the classical music programs, all of which activities tend to increase the station's revenue, does not qualify for exemption under section 501(c)(3) of the Code.

[REDACTED]

In the case of Better Business Bureau of Washington, D.C., Inc. v. U.S., 326 U.S. 279 (1945), the United States Supreme Court concluded that the presence of a single non-exempt purpose, if substantial in nature, will preclude exemption from federal income tax regardless of the number or importance of the exempt purposes of an organization.

The fact that all scholarships awarded and all individuals who auditioned were present or at best former students of [REDACTED], is prima-facie evidence that you are operated for the benefit of a for-profit organization.

A substantial purpose is to support [REDACTED] through scholarships to their students. Accordingly, you are not entitled to recognition of exemption from Federal income tax under section 501(c)(3) and contributions to you are not deductible by donors under section 170.

If you agree with these conclusions or do not wish to file a written protest, please sign and return Form 6018 in the enclosed self-addressed envelope as soon as possible.

If you do not agree with these conclusions, you may, within 30 days from the date of this letter, file in duplicate a brief of the facts, law, and argument that clearly sets forth your position. If you desire an oral discussion of the issue, please indicate this in your protest. The enclosed Publication 892 gives instructions for filing a protest.

If you do not file a protest with this office within 30 days of the date of this report or letter, this proposed determination will become final.

If you do not protest this proposed determination in a timely manner, it will be considered by the Internal Revenue Service as a failure to exhaust available administrative remedies. Section 7428(b)(2) of the Internal Revenue Code provides in part that, "A declaratory judgment or decree under this section shall not be issued in any proceeding unless the Tax Court, the Court of Claims, or the district court of the United States for the District of Columbia determines that the organization involved has exhausted administrative remedies available to it within the Internal Revenue Service."

If this determination letter becomes a final determination, we will notify the appropriate State Officials, as required by section 6104(c) of the Code, that based on the information we have, we are unable to recognize you as an organization of the type described in Code section 501(c)(3).

[REDACTED]
[REDACTED]
If you have any further questions, please contact the person whose name and telephone number are shown at the beginning of this letter.

Sincerely,

[REDACTED]
District Director

Enclosures:
Form 6018
Publication 892